NOTE: The following is a draft response to a request for an advisory opinion prepared for consideration by the Citizen's Ethics Advisory Board. It does not necessarily constitute the views of the Board.

TO: Board Members

FROM: Brian J. O'Dowd, Assistant General Counsel

RE: Further Interpretation of General Statutes § 1-84 (p)

DATE: February 22, 2007

INTRODUCTION

The Citizen's Ethics Advisory Board issues this advisory opinion at the request of an assistant general counsel with the Office of State Ethics (OSE). In that request, she asks whether supervisors and/or subordinates may pool their money to give a collective or group gift valued in excess of the monetary limit set forth in General Statutes § 1-84 (p), a gift provision in the Code of Ethics for Public Officials, chapter 10, part 1, of the General Statutes.

RELEVANT FACTS

The following facts are relevant to this opinion. Section 1-84 (p) is a three-part provision that limits gift-giving between certain individuals in state service. It provides as follows:

> (1) No public official or state employee or member of the immediate family of a public official or state employee shall knowingly accept, directly or indirectly, any gift costing one hundred dollars or more from a public official or state employee who is under the supervision of such public official or state employee.
>
> (2) No public official or state employee or member of the immediate family of a public official or state employee shall knowingly accept, directly or indirectly, any gift costing one hundred dollars or more from a public official or state employee who is a supervisor of such public official or state employee.
>
> (3) No public official or state employee shall knowingly give, directly or indirectly, any gift in violation of subdivision (1) or (2) of this subsection.

In Advisory Opinion No. 2006-6, when asked to interpret § 1-84 (p) for the first time, we reached a three-fold conclusion: first, the monetary limit imposed by § 1-84 (p) is a per-gift—not per-year—amount; second, an individual subject to the $99.99 per-gift limit may nevertheless use the major-life-event exception; and third, the limitations imposed by § 1-84 (p) apply to a direct supervisor and subordinate and to any individual up or down the chain of command.

In the months following the issuance of Advisory Opinion No. 2006-6, both the attorneys in the legal division of the OSE and its director of education have been inundated with questions involving § 1-84 (p), the great majority of which focus on the propriety of collective or group gift-giving by individuals subject to the limitations imposed by § 1-84 (p).

QUESTION

The assistant general counsel asks whether supervisors and/or subordinates may pool their money to give a collective or group gift valued in excess of the monetary limit set forth in § 1-84 (p).

ANALYSIS

The answer to the question at hand is a matter of statutory construction, the fundamental objective of which "is to ascertain and give effect to the apparent intent of the legislature." (Internal quotation marks omitted.) *Perodeau* v. *Hartford*, 259 Conn. 729, 735, 792 A.2d 752 (2002). When construing a statute, we look first to its text and its relationship to other statutes, and if, after doing so, "the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered." General Statutes § 1-2z. When a statute is not plain and unambiguous, we seek interpretive guidance from "extrinsic aids," including, for example, the statute's legislative history, the legislative policy it was designed to implement, and its relationship to existing legislation. See *State* v. *Lutters*, 270 Conn. 198, 205, 853 A.2d 434 (2004).

Looking first, as we must, to the pertinent statutory text, § 1-84 (p) provides in relevant part as follows: "No public official or state employee . . . shall knowingly accept, directly or indirectly, any gift costing one hundred dollars or more" either "from a public official or state employee who is under the supervision of such public official or state employee" or "from a public official or state employee who is a supervisor of such public official or state employee." Under that provision, it is clear, for example, that supervisor A may not accept from subordinate X a gift valued at $150 (nor may subordinate X give such a gift). Suppose, however, that subordinates X and Y contribute $75 each to give a gift valued at $150 to supervisor A. Although the individual contributions of subordinates X and Y are less than the $99.99 limit established in § 1-84 (p), when combined, they result in a gift to supervisor A from subordinates X and Y exceeding the permissible limit. Is it a violation of § 1-84 (p) for supervisor A to accept (and for subordinates X and Y to give) such a gift?

Because the plain language of § 1-84 (p) does not unambiguously resolve the question before us, and because its legislative history is silent on the matter, we look for guidance in a prior advisory opinion addressing a similar question with respect to another category of prohibited gift-givers, registered lobbyists. See *Northeast Ct. Economic Alliance, Inc.* v. *ATC Partnership*, 272 Conn. 14, 48, 861 A.2d 473 (2004). In Advisory Opinion No. 97-15, the former State Ethics Commission (former Commission) was asked, in the context of a recent statutory change limiting gifts from registered lobbyists to less than ten dollars, whether registered lobbyists may aggregate under-ten-dollar contributions to give a gift to a public official or state employee valued in excess of the ten-dollar limit. Id. Noting a clear legislative intent to curtail the gifts allowable under the Code of Ethics, the former Commission stated that, "[s]ince . . . a single lobbyist can no longer give a public official even a $12.00 gift, it follows that the legislature did not intend to allow lobbyists to join together to give such a gift." Id. Hence, it concluded that "lobbyists may split the cost of an item below $10.00 in value, but may not split the cost of an item valued above that threshold." Id. That is to say: "two lobbyists could each pay $4.00 towards the cost of an $8.00 gift, but could not legally pay $9.00 each towards an $18.00 gift, since gifts valued at $10.00 or more are now prohibited." Id.

In light of Advisory Opinion No. 1997-15, with which we agree, we conclude that it is indeed a violation of § 1-84 (p) for supervisor A to accept a gift valued at $150 from subordinates X and Y (and for them to give such a gift), even though the individual contributions of subordinates X and Y are less than the $99.99 limit established in § 1-84 (p). In other words, we conclude that supervisors and/or subordinates may not pool their money to give a collective or group gift valued in excess of the monetary limit set forth in § 1-84 (p). This conclusion is consistent not only with what we believe is an obvious purpose of § 1-84 (p)—to prevent public officials and state employees from requesting or receiving lavish gifts by virtue of public position—but also with a principal purpose underlying the Code of Ethics: to allow legitimate and traditional social interaction (here, the provision and acceptance of modest gifts), but to prohibit "apparent efforts to improperly influence state decision-makers through the provision of substantial benefits." Declaratory Ruling 93-B.

CONCLUSION

It is the opinion of the Citizen's Ethics Advisory Board that supervisors and/or subordinates may not pool their money to give a collective or group gift valued in excess of the monetary limit set forth in § 1-84 (p).